O/ Oil Engines/53

1953. **File No.** 6/53

D5E Legal Department

G. BRANCH

Subject:—

Opinions Under the

Oil Engines (Control & Prices)

Order, 1948

O/ Oil Engines/ 53

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1.)	O.No.G- 12/6-1-53.	Prosecution for failing to furnish a statement of the oil Engines sold as required by the said order.	1-8

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[illegible]
G.O.Ms. No. [illegible], dt.30-11-52

Read [illegible]

[illegible] of the Law of the [illegible]

[illegible] in part, are [illegible]

[illegible] Shri [illegible] Kunshi [illegible] D.C.O., Bombay for a permit for purchase one 20 H.P. Ruston [illegible] Greaves Cotton and Co, Ltd., [illegible] he was asked by the [illegible] permit in the prescribed form through the Collector concerned. Shri [illegible], accordingly, submitted his application in the prescribed form to the Collector of Nanded on 1-12-1947. On receipt of that application with the Collector's recommendation, the D.C.O. issued a permit on 8-2-1948 under Government order, C.S.D.No. 410/D/IV, dt. 10-11-1947 permitting M/s. Greaves Cotton and Co. to sell one Ruston Mark 20 H.P. Oil Engine to Shri Abdulkarim. M/s. Greaves Cotton & Co. sold an engine to Shri Abdulkarim on 30-10-1947 for Rs.6,204/14/ (inclusive of freight etc.) As Shri Abdulkarim found the engine to be unsuitable for his lands, he sold it after 6 months to Shri Rutabhin S.

Contd.

Munshi at the cost price for use on his land at Vatva village. Shri Kutubdin also found the engine to be unsuitable for his land. He therefore advertised in the local papers on 8-3-1949 that he wanted to sell the engine. One Shri J.C.Narain in order to get possession also gave advertisement in the local papers on 13-3-1949 C/o Shri [illegible] that the said engine was for sale. As the result of these advertizements various offers were received by Shri Kutubhin as well as Shri J.C. Narain. One, Shri Mangaldas Motivalal of Patna-Kuva sent the highest offer of Rs.15,000/- to Shri J.C.Narain through Shri Bhargav. The engine was therefore sold to him. Shri Mangaldas took possession of the engine from the place of Shri Abdulkarim after paying Rs.15,000/- to Shri Kutubdin and then applied to the A.& F.D.to get him refund of excess amount paid by him. The A.&.F.Department wants to inform Shri Mangaldas to get his grievance redressed in a court of law as Govt. has no remedy to compel the seller to refund the excess price charged to him. The A.& F.D. thinks that as Shri Abdulkarim and Shri Kutubdin are not dealers within the meaning of clause 1(3) of the Govt. order No. 2038/III/F, dt.16-3-1948, they cannot be held liable for contravention of the said Order.

Contd.

(Vide judgment of the D.C.Bombay in Criminal Revision Application of State Vs. Vakiltbai Jinabhai Patel). However according to this Deptt. they can be prosecuted for not depositing the coln of all sorts within 15 days of the following month to Govt. in contravention of the Govt. order No. 2031/A/F-1, dt. 24-5-1944, and/or charging Govt. under section 415 of the I. P. C. These views have not been forwarded to this Office by the A.G.M.P., for D.L.A's advise whether the views taken by the Deptt. are correct.

Office of the S.L.A.

No recommendation for charging or charging price in excess of the controlled rate would lie. Both Abdul Karim and Kutubuddin are however liable to be prosecuted for failing to furnish a statement of the oil engine sold by them to the Secretary, Agriculture and Forests Department as required by Government Order, Agriculture and Rural Development Department No. 2033/ S/1 dated the 21th May 1948 as this Order applies to old as well as new engines.

Shri Khanolkar may be informed that there is no provision under any law under which Government can recover the excess price paid by him for the engine from Shri Kutubuddin and refund it to him and that he may get his grievance redressed in a court of law if he is so advised.

Sd/- T.M.Lad.

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o/o Remembrancer of Legal Affairs.

U.M.to A.& F.D. ,No. G-12 dated the 6th January 1953.

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